IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.722 OF 2006

In

NOTICE OF MOTION NO.2058 OF 1996

In

SUIT NO.1919 OF 1996

Bimal Viren Vora : Appellant/
Defendant

V/s.

Jhaverchand Hirachand & Ors. : Respondents/
Plaintiffs

...

Mr.Navin Parekh with Mr.P.S.Gidwani for the appellant.

Mr.S. Purohit i/b. Amarchand Mangaldas & Suresh A. Shroff & Co., for the respondents.

...

CORAM : R.M.LODHA & S.A.BOBDE,JJ.

DATE : OCTOBER 3, 2006.

P.C.

1. We heard the counsel for the parties.

2. In our view, prima facie, the impugned order suffers from serious flaw. The impugned order overlooks the interim order dated 26.3.1996 passed by the Small Causes

Court.

3. The said order reads thus:-

> "The,
> Defendants
>
> As mentioned to this Court by Shri/Smt. S.T. Karia Advocate for the Plaintiff abovenamed and upon hearing the affidavit of the Plaintiff filed on this 26th day of March, 1996 THIS COURT DOTH ORDER THAT EXPARTE AD3/4 INTERIM INJECTION (sic) BE HEREBY AWARDED RESTRAINING THE
>
> ABOVENAMED DEFENDANTS/Respondents/ Plaintiff and his/her their Successors, servants, agents and all persons claiming through by or under them from disturbing and/or interfering with the Plaintiff exclusive use, occupation and possession of the suit premises viz. potion (sic) admeasuring 32' x 4'.11" in the terrace of 7th floor at the Bldg. Fulchand Niwas situated at 25, Chowpatty until the hearing of the Notice or until further orders of this Court."

4. The counsel for the respondents does not dispute that the order of the Small Causes Court dated 26.3.1996 is operative. If that be so, we are satisfied that the appointment of the Court Receiver is highly unjustified.

5. We, accordingly, stay the operation of the order dated 12.9.2006.

6. Looking to the controversy involved, we direct the Small Causes Court to hear and dispose of RAE SR/R.A.E./

R.A.DECL/SUIT No.296 of 1996 (Mr.Bimal Viren Vora v. Javerchand Hirachand & Ors.), as expeditiously as possible, and, in no case, later than 31.3.2007. All the parties are directed to co-operate fully with the Small Causes Court in its endeavour to dispose of the suit within the time granted by us.

7. Order accordingly.

8. Appeal stands disposed of.

R.M. LODHA, J.

S.A. BOBDE, J.